Australian Government
Department of Finance

Commonwealth Low-risk Grant Agreement Template

User Guide

VERSION 1.2 | JULY 2014

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1. Introduction

1. This user guide is designed to assist you to use the Commonwealth Low-risk Grant Agreement Template (the template). It should be read in conjunction with the template (and the accompanying risk tool), which are available on the finance website at http://www.finance.gov.au/financial-framework/financial-management-policy-guidance/grants/grant-agreement-template-project.html.
2. The user guide discusses the structure of the template and provides step-by-step guidance on its various components. It also contains frequently asked questions and an example completed template.
3. Questions relating to the user guide, the template, and/or the risk tool, can be sent via email to grants@finance.gov.au.

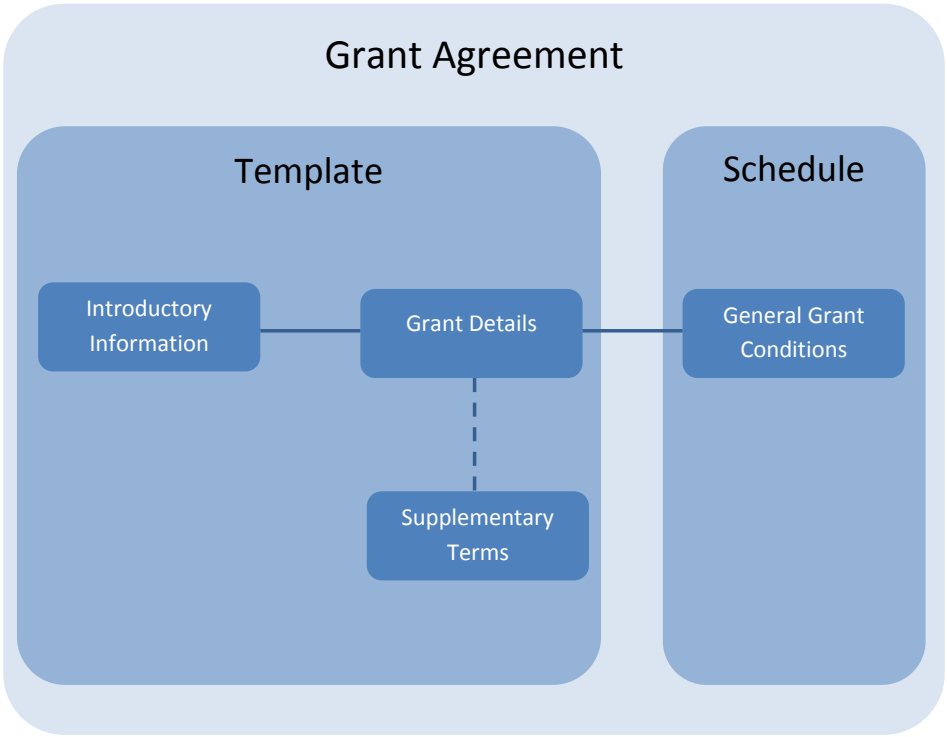
2. How the template works

4. This part explains the template section-by-section and provides guidance on how to use the template.
5. The template is designed to be used for low-risk grants across the Australian Government. Therefore, it has been drafted so that only certain sections can be amended.
6. To ensure consistency, you should only add content where the drafting instructions in the template indicate you can.
7. You should not reorder or remove any sections of the template, except where indicated. If you consider that other amendments need to be made to the template to use it for a particular grant, you should consider whether the template is appropriate.
8. See Attachment A for an example of a completed template.

2.1. Structure of the template

9. Where an Agreement is created using the template it will have two parts: the template and the schedules, with each part made up of a number of components.
   - The template - contains the introductory information, the Grant Details and any Supplementary Terms.
   - The schedules – contains the Commonwealth General Grant Conditions (General Grant Conditions), which are a standard set of terms and conditions which will apply to all Agreements using the template.
10. Once the template has been completed and signed by both Parties it, together with the schedules, forms the Agreement between the Commonwealth and the Grantee.

Figure 1: The structure of the Low-risk Grant Agreement Template



11. The **introductory information** component includes the details of who is entering into the Agreement (the Parties involved) and explains the nature and structure of the Agreement.

12. The **Grant Details** component describes the purpose of the Grant, the details of the Activity to be undertaken and the payments to be made, as well as any Supplementary Terms that apply to the Activity, such as specific legislative requirements or industry standards. You enter the specific details of the particular Grant into the Grant Details. The Grant Details component includes the signatures page where the Commonwealth and the Grantee execute the Agreement.

13. The **Supplementary Terms** component is optional and contains additional terms and conditions. For many Agreements, there may not be a need to include Supplementary Terms, but for some Agreements, it may be appropriate to include one or more of the Supplementary Terms. You can only include the Supplementary Terms that are contained in the template. You should carefully consider whether to include a Supplementary Term and only include additional terms that are essential to the management of the Grant.

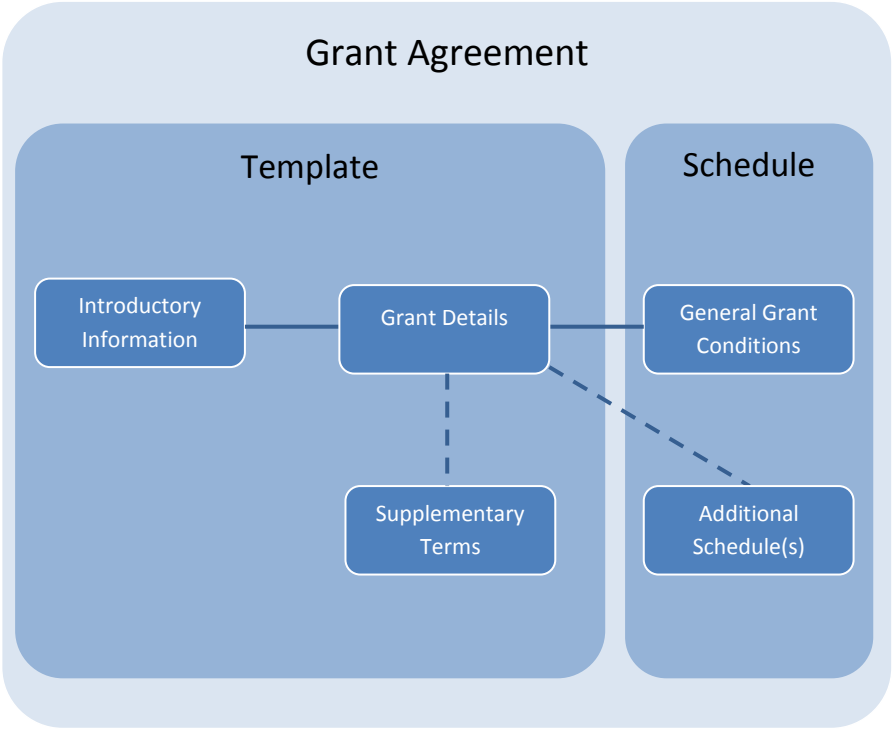
14. The **General Grant Conditions** is a schedule (Schedule 1) attached at the end of the template. It defines the standard rights and obligations that apply to the Agreement. These conditions cannot be changed. If included, Supplementary Terms will take priority over the General Grant Conditions.

2.2. Adding schedules

15. For straightforward Grants, all the details of the Activity should be contained in the Grant Details section of the template. However, for larger or more complicated Grants, it may be necessary to include information, which does not readily fit within the Grant Details section of the template, as additional schedules. For example, where a Grant extends over a number of years and involves milestones or periodic reporting, you should include any reporting templates which the Grantee will be required to use as schedules.

16. Additional information relating to the Activity should be included as additional schedules at the end of the Agreement. You should be careful to ensure any schedules are properly referenced in the Grant Details (e.g. item 'B. Activity' and item 'E. Reporting') and update the contents page accordingly.

Figure 2: The structure of the Low-risk Grant Agreement Template – Additional Schedules



2.3. Multiple Grants within an Agreement

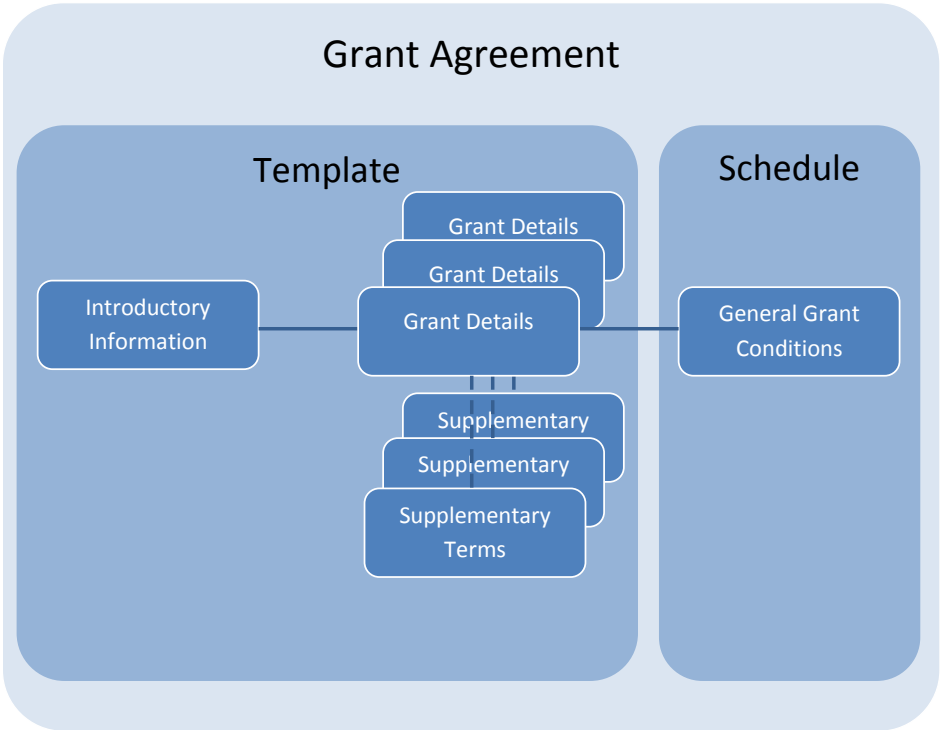
17. The template has been designed to accommodate more than one Grant under a single Agreement. This can be achieved by preparing a separate Grant Details component (with, if necessary, appropriate Supplementary Terms) for each Grant. Including multiple Grants in a single Agreement may affect the risk of the Agreement overall. Where multiple Grants are included under a single Agreement you should assess whether the template is the appropriate document to be used or whether a different agreement is appropriate.

18. Where multiple Grants are included under one Agreement, each Grant must be between the same Parties. The Grantee must be the same legal entity (e.g. the same ABN and ACN) and the same entity representing the Commonwealth should be providing the Grants.

19. Where an additional Grant is added to an existing Agreement, the new Grant Details should be treated as a variation to the original Agreement (see General Grant Condition 7).

20. Managing multiple Grants within a single Agreement can require additional oversight. Each Grant (and each Activity) should be actively managed, as there may be an increased risk of issues being overlooked or 'merged' across separate Grants. The governance capacity of your entity and the Grantee should be considered before incorporating multiple Grants within a single Agreement.

Figure 3: The structure of the Low-risk Grant Agreement Template – Additional Grants



3. The Grant Agreement

3.1. Parties to the Agreement

21. The Parties to the Agreement section is where you enter the details of the Grantee and your entity (representing the Commonwealth) in the highlighted sections of the template.

Grantee

22. You must include the full legal name of the Grantee, their registered address and Australian Business Number (ABN) (if applicable). You should confirm that this information is correct by undertaking searches of relevant databases. In particular, www.business.gov.au for company and business names and www.abr.business.gov.au for ABNs.

23. It may not be necessary to include all the information provided for in the template. For example, individuals may not have a trading or business name or fax number. However, you should include enough information so that the Grantee is identifiable.

IMPORTANT: If the Grantee is the Trustee of a Trust you should include Supplementary Term G12. See part 6 of the user guide for more information.

The Commonwealth

24. This is where you provide the details of your entity. You should include all the information requested here.

3.2. Background

25. The background gives a short summary of what each Party to the Agreement is agreeing to. The Commonwealth (represented by your entity) is agreeing to assist the Grantee to undertake the Activity in accordance with the Agreement. The Grantee is agreeing to use the Grant and undertake the Activity in accordance with the Agreement.

26. Although the background describes 'the Grant' and 'the Activity', the template has been designed to accommodate multiple Grants to the same Grantee within the Agreement.

3.3. Scope of this Agreement

27. This section lists all the different documents that form the Agreement. Importantly, some documents may form part of the Agreement because you add them. Any documents that form part of the Agreement, for example, industry standards or reporting templates, must be referred to, or incorporated, in the Grant Details.

28. The hierarchy of the documents tells you which document will take priority if there are inconsistencies or ambiguities between different parts of the Agreement. The Supplementary Terms take priority over the General Grant Conditions. For example, the General Grant Conditions require the Grantee to maintain records of the expenditure of the Grant. However, the nature of the Activity may require the Supplementary Term on record keeping to allow you

to specify the records the Grantee should retain. In that case, the Supplementary Term on record keeping will override the General Grant Condition on record keeping.

IMPORTANT: You should only add documents to the Agreement that are necessary to enable the Grantee to undertake the Activity. For example, any reporting templates that the Grantee is to use should be referred to in the Grant Details at item 'E. Reporting' and then attached to the Agreement as a schedule.

29. Only documents in the Agreement, or incorporated by reference, form part of the Agreement. This means that all other things, such as written proposals, email exchanges, or conversations before the Agreement was signed, may not form part of the Agreement. You should therefore ensure that the Grant Details are clear and contain all information necessary for the Activity to be undertaken.

4. Grant Details

30. The Grant Details are where you include the information that relates to a particular Grant. This includes a description of the purpose of the Grant, details of the Activity/ies the Grantee must perform, and any related payment details and reporting requirements. It also includes the contact details of the people who will be responsible for managing the Grant on a day-to-day basis.

31. You can amend the details under the various item headings in the Grant Details to suit your particular Grant and the Activity. However, you must not amend or delete any of the item headings, as they relate to definitions in the General Grant Conditions and are referenced throughout the Agreement.

IMPORTANT: Any relevant Supplementary Terms should be included as part of the Grant Details. These provisions will relate to the specific Grant covered by the Grant Details. It is therefore possible for different Grants to have different Supplementary Terms under the one Agreement. Supplementary Terms are discussed in part 6 of the user guide.

4.1. A. Purpose of the Grant

32. In this section you should include a brief description of the aims and/or objectives of the Grant. This provides context for the Grant and the Activity. You don't need to include details of the specific Activity here as this will be covered in the next section.

33. It is likely that any related program guidelines will contain a description of the purpose of the Grant or program. All Grants under a program may have the same or similar detail in this section. Make sure that the description here is consistent with any published program guidelines.

4.2. B. Activity

34. In this section you should provide a detailed description of the particular Activity/ies that the Grantee must undertake. You should be as comprehensive and precise as is necessary to ensure that both Parties have a clear and agreed understanding of the Activity. A useful test is to consider whether someone who is not familiar with the Grant, your entity or the Grantee could read this section and understand the Activity and what is required. This section will be the main reference tool if any issues arise as to whether or not the Activity has been properly undertaken and successfully completed. If the Grant is to be paid in instalments or on the achievement of milestones, these should be reflected here (see section 4.4 of the user guide).

35. Where necessary, you should also provide details of anything that is specifically **not** part of the Activity and therefore not covered by the Grant.

36. If the Activity involves preparing reports you should reference them here. However, do not include the specific details of any reports. The actual content of reports should be included at item 'E. Reporting' (see section 4.5 of the user guide).

4.3. C. Duration of the Activity

37. In this section you should indicate the date the Activity will start and end (the Completion Date). Note these could be specified events.

38. Be sure the Completion Date takes account of anything the Grantee is required to do as part of the Activity, including the preparation and submission of any final reports required under item 'E. Reporting'.

4.4. D. Payment of the Grant

39. In this section you should include all details regarding payment of the Grant. This includes the amount of the Grant and the form and timing of payments (such as instalments and linking payments to the achievement of milestones).

40. You may wish to include the details of the bank account into which payments will be made to avoid any confusion when it comes time to make a payment. The Grantee does **not** necessarily need to open a separate bank account specifically for the Grant. Separate bank accounts should generally not be required for low-value grants and may represent additional administrative costs for the Grantee.

41. You should include any invoicing information required for the payment of the Grant. This includes information regarding Goods and Services Tax (GST) for taxable supplies made under the Agreement.

42. You have the option of including a clause that allows you to issue the Grantee with a Recipient Created Tax Invoice (RCTI), rather than requiring the Grantee to invoice you. If you have any specific administrative requirements around RCTIs you can include them here.

43. Questions regarding the treatment of GST in relation to any payments being made under the Agreement should be directed to the chief financial officer unit within your entity or the Australian Taxation Office.

4.5. E. Reporting

44. In this section you should specify any reporting requirements in relation to the Grant. Reports should focus on the performance of the Activity and its outcomes. In some situations, you may require additional information to be provided by the Grantee, such as data showing the outcomes of the Activity.

45. You should carefully consider what data and reporting you require the Grantee to provide. While you should ensure that the Grantee is providing sufficient information to enable you to assess the Grantee's performance of the Activity, you should avoid requesting data or reports that you do not intend to use.

46. You should be very clear about what needs to be included in each report, what data needs to be collected, how the information in the report should be presented, details of any particular certification or sign off required and the date reports are required to be submitted by. Where the Grant is being paid in instalments, the timing of submission of reports can be aligned with the payment of the Grant to assist with management of the Agreement.

47. Where reports are required to be approved before they are accepted, this should be clearly indicated and you should ensure that sufficient information is requested to allow the reports to be properly assessed.

IMPORTANT: The licence to Intellectual Property Rights in Reporting Material (see General Grant Condition 12) directly relates to the reports in item 'E. Reporting'.

48. The default position under the General Grant Conditions requires the Grantee to provide a signed statement indicating that the Grant was spent in accordance with the Agreement. You should consider carefully whether there is a need for additional financial reports or acquittals and the burden this might have on the Grantee, taking into account the value of the Grant, the nature of the Activity and the relevant risks.

49. Consistent with the *Commonwealth Grants Rules and Guidelines*, when determining what financial acquittal or reporting is required, you must have regard to information collected by regulators and available to you. If a Grantee provides an annual audited financial statement to a regulator, then a financial acquittal should not be required, except for higher risk grants. Where this is the case you should carefully consider whether using the template is appropriate for the proposed grant.

IMPORTANT: If the Activity requires independently audited financial acquittal reports you must include Supplementary Term 'G4. Audit'.

50. Independently audited financial acquittal reports can be expensive and you should carefully consider whether they are needed for a low-risk grant. Where independently audited financial acquittal reports are appropriate, due to the nature of the Grant, the cost of preparing the report should be factored into the Grant.

4.6. Party representatives and address for notices

51. The Parties' representatives will be responsible for liaison and the day-to-day management of the Grant, as well as accepting and issuing any written notices (see General Grant Condition 3) in relation to the Grant. Each person chosen to represent the Parties should have the authority to make decisions with regard to the Agreement.

52. These details should be kept up-to-date, for example, where there is a change in personnel responsible for managing the Grant. In some situations, it may be appropriate for your entity to establish a 'dedicated' email address for a Grant or series of Grants that is accessible by more than one person, to avoid notices being 'missed'.

5. General Grant Conditions

53. This part provides guidance on the General Grant Conditions. The General Grant Conditions automatically apply to all Agreements and all Grants using the template. The General Grant Conditions are provided as a set of standard terms and conditions in a two page schedule, similar to the way terms and conditions are presented in other sectors, such as the real estate or insurance sector.

54. The General Grant Conditions comprise 20 main clauses and a definitions clause. They cover categories including:

- undertaking the Activity
- the relationship between the Commonwealth and the Grantee
- conditions relating to the payment of the Grant
- handling information
- managing risks
- resolving disputes
- ending the Agreement early.

55. The General Grant Conditions cannot be changed. However, some may be displaced by Supplementary Terms (see part 6 of the user guide). For example, including Supplementary Term 'G5. Activity Material' will give the Commonwealth a broader licence to Intellectual Property Rights than under General Grant Condition 12.

5.1. How is the Activity to be undertaken?

56. This section concerns the obligations on the Grantee when carrying out the Activity, as described in the Grant Details (see section 4.2 of the user guide).

1. Undertaking the Activity

The Grantee agrees to undertake the Activity in accordance with this Agreement.

'Agreement' includes everything in the Grant Details, any Supplementary Terms, the General Grant Conditions and any other material incorporated by reference in the Grant Details, for example, reporting templates.

57. Under General Grant Condition 1 the Grantee agrees to undertake the Activity according to the Agreement. This is the Grantee's main obligation under the Agreement. Where the Grantee fails to undertake the Activity in accordance with the Agreement it may trigger some of the other provisions, such as withholding payments (see General Grant Condition 8) or termination for default (see General Grant Condition 18).

5.2. How is the relationship governed?

58. This section concerns the relationship between the Commonwealth (represented by your entity) and the Grantee. It covers acknowledgements, notices, the legal relationship between the Parties, subcontracting, conflict of interest and variations to the Agreement.

2. Acknowledgements

The Grantee agrees to acknowledge the Commonwealth's support in Material published in connection with this Agreement and agrees to use any form of acknowledgment the Commonwealth reasonably specifies.

You should be clear about the form of the acknowledgement you want the Grantee to use and how you want them to use it. Do not assume that the Grantee will know your preferences just because they have received grants from your entity in the past.

59. General Grant Condition 2 deals with acknowledgements. It is common practice for a recipient of an Australian Government grant to acknowledge the Australian Government's support in grant-related material. Often the form of the acknowledgement will include the Commonwealth Coat of Arms or the administering entity's logo. There may be specific wording that you would like used, such as a reference to the grant program under which the Grant is provided.

3. Notices

3.1 The Parties agree to notify the other Party of anything reasonably likely to affect the performance of the Activity or otherwise required under this Agreement.

3.2 A notice under this Agreement must be in writing, signed by the Party giving notice and addressed to the other Party's representative.

This clause has been included to encourage communication and co-operation between the Parties.

60. General Grant Condition 3.1 relates to the circumstances and form of notifications under the Agreement. It would be impossible to list all the circumstances which are reasonably likely to affect the performance of an Activity. However, as a guide, a change to anything that formed part of an application submission, was specifically discussed prior to entering the Agreement, or is referenced in the Grant Details, would most likely affect the performance of the Activity.

61. General Grant Condition 3.2 requires all notices under the Agreement be in writing, signed by the Party giving notice and addressed to the other Party's representative (as specified in item 'F. Party representatives and address for notices' of the Grant Details). Notices in writing include electronic communications such as email.

62. While notices under General Grant Condition 3 will need to be in writing and signed by the Party giving notice, not all communication between the Parties needs to be in writing and signed.

63. Generally, written notification will be required for any 'official' correspondence in relation to the Grant or under the Agreement, such as accepting reports (see section 4.5 of the user guide), withholding payment (see General Grant Condition 8), termination for default (see General Grant Conditions 18) and cancellation for convenience (see General Grant Conditions 19).

64. Day-to-day interaction between you and the Grantee can be undertaken in a less formal setting. However, you should ensure that appropriate file notes and other records are kept and that anything significant is confirmed in writing.

4. Relationship between the Parties

A Party is not by virtue of this Agreement the employee, agent or partner of the other Party and is not authorised to bind or represent the other Party.

"Partner" refers to the legal concept of a partnership.

65. General Grant Condition 4 clarifies that the Agreement does not make either Party the employee, agent or partner of the other Party. It makes it clear that no Party can bind or represent the other Party to someone outside the Agreement (i.e. the Grantee is not part of your entity, or able to speak on behalf of your entity, just because it is undertaking the Activity).

5. Subcontracting

5.1 The Grantee remains responsible for compliance with this Agreement, including in relation to any tasks undertaken by subcontractors.

5.2 The Grantee agrees to make available to the Commonwealth the details of any of its subcontractors engaged to perform any tasks in relation to this Agreement upon request.

This clause confirms the Grantee is responsible for any subcontractors it engages. If an issue were to arise under the Agreement relating to a subcontractor, the Commonwealth would raise it with the Grantee, and the Grantee would need to address it with the subcontractor.

66. General Grant Condition 5 deals with subcontracting. As the template is intended for use in relation to low-risk grants, the Grantee is not required to obtain the Commonwealth's approval prior to engaging subcontractors. The Grantee remains responsible for the compliance of subcontractors with the Agreement. The Grantee is still required to provide the details of any subcontractors to the Commonwealth upon request.

67. It will be the Grantee's responsibility to manage any issues with subcontractors, given they are best placed to do this. Under the Agreement, the Grantee is required to ensure that all relevant aspects of the Agreement are complied with, regardless of whether subcontractors are involved.

6. Conflict of interest

The Grantee agrees to notify the Commonwealth promptly of any actual, perceived or potential conflicts of interest which could affect its performance of this Agreement and agrees to take action to resolve the conflict.

It is not possible to list all the circumstances that may give rise to a possible conflict of interest or the action that may be required to resolve it. It is preferable to take a pro-disclosure approach and to work cooperatively to resolve any conflicts.

68. Under General Grant Condition 6, the Grantee agrees to notify the Commonwealth promptly of any conflict of interest issues, which could affect its performance of the Agreement. The inclusion of a conflict of interest provision is common for most types of agreements with the Commonwealth. The Grantee is also required to take action to resolve conflict, which will depend on the nature of the conflict.

69. Where the Grantee fails to take appropriate action to resolve a conflict, you may be entitled to enforcement provisions, such as withholding payments (see General Grant Condition 8).

7. Variation

This Agreement may be varied in writing only, signed by both Parties.

Similar to notices under General Grant Condition 3, variations to the Agreement must be in writing and signed.

70. General Grant Condition 7 requires that any variations to the Agreement are recorded in writing and signed by both Parties. It is not uncommon for a grant agreement to need to be varied during the life of the agreement. For example, representatives may change, or intervening factors may require milestones or the timing of payments to change. While these issues are likely to be initially addressed through discussions with the Grantee, it is important that any variations are formally recorded in writing and signed by the appropriate personnel. This reduces the risk of uncertainty regarding the Parties' respective roles and responsibilities.

5.3. What conditions apply to payments?

71. This section deals with the conditions that attach to the payment of the Grant. It covers making payments and repayments, withholding payments and spending payments.

8. Payment of the Grant

8.1 The Commonwealth agrees to pay the Grant to the Grantee in accordance with the Grant Details.

8.2 The Commonwealth may by notice withhold payment of any amount of the Grant where it reasonably believes the Grantee has not complied with this Agreement or is unable to undertake the Activity.

8.3 A notice under clause 8.2 will contain the reasons for any payment being withheld and the steps the Grantee can take to address those reasons.

8.4 The Commonwealth will pay the withheld amount once the Grantee has satisfactorily addressed the reasons contained in a notice under clause 8.2.

It is important that payments are made in a timely manner in accordance with the Grant Details. In some situations, it may be necessary for the Commonwealth to withhold a payment. However, withholding payments can seriously impact on the ability of the Grantee to continue to undertake the Activity and should only be used where appropriate. Good communication may alleviate the need to resort to withholding payments or ensure that the issue is resolved quickly to enable the parties to return to a 'business as usual' situation with a minimum of disruption.

72. General Grant Condition 8 deals with payment of the Grant. While the performance of the Activity is the Grantee's main obligation under the Agreement, payment of the Grant in accordance with the Grant Details is the Commonwealth's main obligation.

73. Where the Commonwealth reasonably believes the Grantee has failed to comply with the Agreement, or is unable to undertake the Activity, it may be able to withhold the Grant by giving notice. This could be relevant where the Grantee has not complied with the Agreement, for example, by failing to meet milestones. Withholding payments can seriously impact on the ability of the Grantee to continue to undertake the Activity so this option should be carefully considered. Any issues with the Grantee's performance of the Agreement should be discussed with the Grantee in a timely manner. If a payment is withheld, it is important that the Grantee is made aware of the reason and the action the Grantee can take to address the issue. This will enable it to be resolved as quickly as possible.

9. Spending the Grant

9.1 The Grantee agrees to spend the Grant for the purpose of undertaking the Activity only.

9.2 The Grantee agrees to provide a statement signed by the Grantee verifying the Grant was spent in accordance with the Grant Details.

If Supplementary Term 'G4. Audit' is included, the Grantee will be required to provide an independently audited financial acquittal report instead of the signed statement in General Grant Condition 9.2

74. General Grant Condition 9.1 contains the second main obligation on the Grantee, which is to spend the Grant for the purpose of the Activity only. It also requires the Grantee to provide a signed statement verifying that the Grant was spent in accordance with the Grant Details.

75. General Grant Condition 9.2 states the default position under the Agreement in relation to financial reporting and acquittals. At item 'E. Reporting' in the Grant Details, you should specify the form and content of the signed statement. You should also indicate who should sign the statement. This may be the Grantee's representative as indicated at item 'F. Party representatives and address for notices' of the Grant Details (see section 4.6 of the user guide). In other circumstances, it may be appropriate to specify some other representative of the Grantee, for example, the chief financial officer.

10. Repayment

10.1 If any of the Grant has been spent other than in accordance with this Agreement or any amount of the Grant is additional to the requirements of the Activity, the Grantee agrees to repay that amount to the Commonwealth unless agreed otherwise.

10.2 The amount to be repaid under clause 10.1 may be deducted by the Commonwealth from subsequent payments of the Grant.

Section 11 of the *Public Governance, Performance and Accountability Rule 2014* obliges Accountable Authorities to pursue recovery of all debts for which they are responsible, unless the debt has been written off as authorised by an Act, or it is considered that the debt is not legally recoverable or that recovery is not economical to pursue.

76. Under General Grant Condition 10.1, the Grantee agrees to repay any amount of the Grant that is misspent or that is additional to the requirements of the Activity, unless agreed otherwise.

77. General Grant Condition 10.2 allows the Commonwealth to deduct an amount to be repaid from future payments of the Grant, rather than requiring repayment. This may be more administratively efficient where there are future payments of the Grant to be made. You should be careful when deducting from future payments where there are multiple Grants under the one Agreement. Each Grant should be separately accounted for and excess or misspent amounts of one Grant should generally not be 'transferred' or 'set-off' against other Grants with the same Grantee.

5.4. How is information to be handled?

78. This section deals with information under the Agreement. It covers record keeping, intellectual property, privacy and confidentiality.

11. Record keeping

The Grantee agrees to maintain records of the expenditure of the Grant.

Where additional record keeping is appropriate for a particular Grant, you can include the Supplementary Term 'G3. Record keeping' specifying additional record keeping.

79. General Grant Condition 11 contains the default record keeping requirement under the Agreement. Often grant agreements will specify a length of time for which the recipient must maintain records, for example, a five year period. Under this clause, the requirement to maintain records of expenditure cease

when the Agreement ends. It is important that the Completion Date of the Activity is after the time that all reports are provided. If additional record keeping requirements are required (whether financial records or other records associated with the conduct of the Activity), you should use Supplementary Term 'G3. Record keeping'.

80. General Grant Condition 11 does not affect requirements on the Grantee to maintain records for reasons separate to the Agreement, for example, for tax purposes.

12. Intellectual Property

12.1 The Grantee owns the Intellectual Property Rights in Material created undertaking the Activity.

12.2 The Grantee gives the Commonwealth a non-exclusive, irrevocable, royalty-free licence to use, reproduce, publish and adapt Reporting Material for Commonwealth Purposes.

12.3. The licence in clause 12.2 does not apply to Activity Material.

12.4. This Agreement does not affect the ownership of Intellectual Property Rights in Existing Material.

The licence in clause 12.2 relates to the reports the Grantee is required to provide under item 'E. Reporting' of the Grant Details. Supplementary Term 'G4. Activity Material' provides a broader licence where the Commonwealth requires more comprehensive rights to access and use Material created under the Agreement.

81. General Grant Condition 12.1 contains the default position under the Agreement that each Party retains the Intellectual Property Rights (IPR) in Existing Material and the Grantee owns all IPR in Material created by undertaking the Activity. The Commonwealth is granted a licence with regard to Reporting Material for Commonwealth Purposes. Reporting Material is defined in the General Grant Conditions. Reporting Material essentially relates to the reports the Grantee is required to provide to the Commonwealth under item 'E. Reporting' of the Grant Details.

82. The licence in General Grant Condition 12.2 allows the Commonwealth to adapt and use the reports, and the intellectual property contained in them, for free, for non-commercial purposes. For example, reporting to Ministers or publishing on the entity website. This approach is consistent with paragraph 11.2 of the *Commonwealth Grants Rules and Guidelines*.

83. Where the purpose of the Grant is to produce some sort of product, such as a pamphlet or training tools, which the Commonwealth may want to use and/or adapt, this clause will most likely be insufficient for the Commonwealth to reuse the products. Supplementary Term 'G5. Activity Material' provides a broader licence to the Commonwealth in relation to Activity Material developed under the Agreement. Activity Material is defined in the General Grant Conditions. Essentially, it includes any Material created or developed by the Grantee as a result of the Activity, other than Reporting Material.

84. The template does not include specific provisions dealing with moral rights. If the proposed Activity includes the development of indigenous intellectual property; matters with a distinct religious, spiritual, moral or ethical context; work where there is a high degree of artistic sensitivity; or work that may need to be heavily adapted or edited by the Commonwealth, you should consider whether the template is appropriate. It may be that an agreement with a more detailed approach to IPR and moral rights is necessary.

13. Privacy

When dealing with Personal Information in carrying out the Activity, the Grantee agrees not to do anything which, if done by the Commonwealth, would be a breach of an Australian Privacy Principle.

As with any relevant legislation, it is important both Parties inform themselves of their obligations under the *Privacy Act 1988*.

85. General Grant Condition 13 defines the obligations on the Grantee with regard to Personal Information under the Agreement. The Grantee agrees not to do anything which, if done by the Commonwealth, would be a breach of an Australian Privacy Principle. Personal Information and Australian Privacy Principle is defined in the *Privacy Act 1988*. Personal Information is defined in the *Privacy Act 1988*.

86. The Grantee continues to be subject to, and required to comply with, the requirements of the *Privacy Act 1988*. The Commonwealth also continues to be bound to comply with the obligations required under the *Privacy Act 1988*, including in relation to Personal Information of the Grantee, its staff and beneficiaries.

14. Confidentiality

The Parties agree not to disclose each other's confidential information without prior written consent unless required or authorised by law or Parliament.

If you are unsure of your confidentiality obligations in a specific situation, you should seek legal advice.

87. General Grant Condition 14 concerns confidentiality. It is designed to be consistent with the obligations that exist at common law regarding confidential information.

5.5. How are risks managed?

88. This section deals with the management of certain risks under the Agreement. It covers insurance and indemnities.

15. Insurance

The Grantee agrees to maintain adequate insurance for the duration of this Agreement and provide the Commonwealth with proof when requested.

If there is a specific type or amount of insurance required due to the nature of the activity **and** you are concerned that the Grantee does not or will not maintain that insurance, then the template should not be used.

89. General Grant Condition 15 concerns the Grantee's obligation to maintain adequate insurance and to provide proof of insurance, when requested. Determining what is adequate insurance for a given Activity depends on the nature and circumstances of the Activity and the Grantee. In the context of a low-risk grant, the template assumes the Grantee, rather than the Commonwealth, is best placed to assess the type and amount of insurance required for the Activity.

16. Indemnities

16.1 The Grantee indemnifies the Commonwealth, its officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.

16.2 The Grantee's obligation to indemnify the Commonwealth will reduce proportionally to the extent any act or omission involving fault on the part of the Commonwealth contributed to the claim, loss or damage.

The Grantee is responsible for conducting the Activity and so indemnifies the Commonwealth against claims arising as a result of the Activity. The Commonwealth retains responsibility to the extent that the Commonwealth contributed to the loss.

90. General Grant Condition 16 deals with indemnities. An indemnity seeks protection for a Party against loss, which it might suffer as a result of the Activity. This clause sets out the Grantee's obligations in indemnifying the Commonwealth in respect to the Activity. The Commonwealth is responsible to the extent it contributed to the claim, loss or damage. This clause is designed to be consistent with the obligations that exist at common law regarding indemnities.

5.6. How are disputes resolved?

91. This section deals with dispute resolution under the Agreement. The expectation is that the Parties will seek to resolve disputes through negotiation.

17. Dispute resolution

17.1 The Parties agree not to initiate legal proceedings in relation to a dispute unless they have tried and failed to resolve the dispute by negotiation.

17.2 The Parties agree to continue to perform their respective obligations under this Agreement where a dispute exists.

17.3 The procedure for dispute resolution does not apply to action relating to termination or urgent litigation.

The *Legal Services Directions 2005* require the Commonwealth to act as a model litigant. This includes endeavouring to avoid, prevent and limit the scope of legal proceedings wherever possible, including by giving consideration in all cases to alternative dispute resolution before initiating legal proceedings and by participating in alternative dispute resolution processes where appropriate.

92. General Grant Condition 17 requires the Grantee and the Commonwealth to attempt to resolve any disputes by negotiation before initiating any legal proceedings. However, the requirement to negotiate does not apply to actions relating to termination or urgent litigation.

93. Importantly, both Parties must continue to perform their respective obligations under the Agreement even where a dispute exists. This ensures that unrelated aspects of the Activity are not disrupted during the course of negotiations in relation to a dispute.

5.7. How is the Agreement ended early?

94. This section deals with some ways the Agreement can be ended before the Completion Date. It covers termination and cancellation as well as clauses that survive the end of the Agreement.

18. Termination for default

The Commonwealth may terminate this Agreement by notice where it reasonably believes the Grantee:

(a) has breached this Agreement; or

(b) has provided false or misleading statements in their application for the Grant; or

(c) has become bankrupt or insolvent, entered into a scheme of arrangement with creditors, or come under any form of external administration.

The ability to terminate does not necessarily mean the Commonwealth is required to terminate. The expectation is that the Parties would seek to address minor issues through less 'final' means, such as withholding payment under General Grant Condition 8.

95. Under General Grant Condition 18, the Commonwealth can terminate the Agreement by notice where the Grantee has breached the Agreement, provided false or misleading statements in their application for the Grant, or where the Grantee encounters certain financial difficulties.

96. Terminating an Agreement for default has serious implications. In addition to considering the policy and program issues, you should consider seeking legal advice before using General Grant Condition 18 to terminate an Agreement.

19. Cancellation for convenience

19.1 The Commonwealth may cancel this Agreement by notice due to:

(a) a change in government policy; or

(b) a Change in Control of the Grantee, which the Commonwealth believes will negatively affect the Grantee's ability to comply with this Agreement.

19.2 The Grantee agrees on receipt of a notice of cancellation under clause 19.1 to:

(a) stop the performance of the Grantee's obligations as specified in the notice; and

(b) take all available steps to minimise loss resulting from that cancellation.

Change in government policy in this context could include a decision of government, such as by the Prime Minister, Cabinet or the Expenditure Review Committee.

19. Cancellation for convenience (continued)

19.3 In the event of cancellation under clause 19.1, the Commonwealth will be liable only to:

(a) pay any part of the Grant due and owing to the Grantee under this Agreement at the date of the notice; and

(b) reimburse any reasonable expenses the Grantee unavoidably incurs that relate directly to the cancellation and are not covered by 19.3(a).

19.4 The Commonwealth's liability to pay any amount under this clause is subject to:

(a) the Grantee's compliance with this Agreement; and

(b) the total amount of the Grant.

19.5 The Grantee will not be entitled to compensation for loss of prospective profits or benefits that would

Cancellation for convenience requires the Commonwealth to compensate the Grantee for unavoidable losses directly related to the cancellation. However, it does not include loss of profits or benefits and the Grantee can never receive more than the original amount of the Grant.

97. General Grant Condition 19 provides that the Commonwealth can cancel the Agreement in limited circumstances, even though the Grantee may not have breached its obligations under the Agreement. The two circumstances include where there is a change in government policy or where there is a Change in Control of the Grantee, which the Commonwealth believes will negatively affect the Grantee's ability to comply with the Agreement. It is not expected that this clause would be used very often. However, there may be situations where it is appropriate for you to cancel a Grant.

98. Where a Grantee receives a notice of cancellation under this clause, it must stop performing the obligations of the Agreement, as specified in the notice, and take all available steps to minimise any loss resulting from the cancellation. This would include not entering into any new commitments in relation to the Activity.

99. Unlike termination for default, the Commonwealth will be liable to pay certain amounts to ensure that the Grantee is not unfairly disadvantaged by the decision to cancel the Agreement. This includes reimbursing reasonable expenses arising directly from the cancellation. What constitutes a reasonable expense will depend on the circumstances. However, it will not extend to indirect expenses or losses of prospective profits or benefits and cannot exceed the amount of the Grant.

100. Cancelling an Agreement for convenience has serious implications. In addition to considering the policy and program implications, you should consider seeking legal advice before using General Grant Condition 19 to cancel an Agreement.

20. Survival

Clauses 10, 12, 13, 14, 16, 20 and 21 survive termination, cancellation or expiry of this Agreement.

Some clauses, for example indemnities, would be ineffective if the obligation ceased with the end of the Agreement.

101. General Grant Condition 20 lists the General Grant Conditions that will continue to operate after the Agreement has ended. An example is the requirement to repay any amount not spent in accordance with the Agreement or where the Commonwealth sought indemnification in relation to a claim arising under the Agreement, which may occur after the Agreement has ended.

5.8. What are the definitions?

102. General Grant Condition 21 lists terms defined under the Agreement. Definitions are designed to help clarify words which have a specific meaning under the Agreement. You should only use these words the way they are defined in General Grant Condition 21.

21. Definitions (extract)

In this Agreement, unless the contrary appears:

- **Activity** means the activities described in the Grant Details.
- **Activity Material** means any Material, other than Reporting Material, created or developed by the Grantee as a result of the Activity.
- **Agreement** means the Grant Details, Supplementary Terms (if any), the Commonwealth General Grant Conditions and any other document referenced or incorporated in the Grant Details.
- **Australian Privacy Principle** has the same meaning as in the *Privacy Act 1988*.
- **Change in the Control** means any change in any person(s) who directly exercise effective control over the Grantee.
- **Commonwealth** means the Commonwealth of Australia as represented by the entity specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
- **Commonwealth General Grant Conditions** means this document.
- **Commonwealth Purposes** does not include commercialisation or the provision of the Material to a third party for its commercial use.

6. Supplementary Terms

103. The Supplementary Terms are an additional component of the template. They are optional clauses you can include if necessary. The Supplementary Terms address some of the more common issues which are not covered by the General Grant Conditions. Other than as indicated, you cannot amend or insert your own Supplementary Terms.

104. Supplementary Terms relate to a particular Grant so they are included as part of the Grant Details. Where multiple Grants are made under the one Agreement, each Grant will have its own Grant Details and, if necessary, its own Supplementary Terms.

IMPORTANT: You cannot draft your own additional Supplementary Terms to include in the template.

105. Any Supplementary Term that is not required should have all highlighted text within the relevant text box deleted, except the phrase 'Not Applicable'. This process ensures that you have considered and deliberately excluded the Supplementary Term from applying and retains consistent clause numbering between Agreements using the template. If no Supplementary Terms are included then delete all the text boxes and simply include 'Not Applicable' under the heading 'G. Supplementary Terms' (see Attachment A).

106. If, in the course of developing an Agreement for a particular Grant, you consider that significant additional provisions are required beyond those in the General Grant Conditions and the Supplementary Terms, then you should reconsider your assessment of the Grant. It may be that the template is not appropriate for the Grant.

6.1. G1. Other Contributions

107. Where the Grant is contingent on the Grantee securing a contribution from someone other than the Commonwealth, this Supplementary Term can be included.

G1. Other Contributions

[The following Supplementary Term should be included where your decision to provide the Grant is in part due to the Grantee or a third party (e.g. a State government agency) providing financial or in-kind contributions to support the conduct of the Activity. Where the Grant is contingent on Other Contributions you may wish to include an associated reporting requirement as part of Item E in the Grant Details. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G1.1 'Other Contributions' means the financial or in-kind contributions other than the Grant set out below:

[*insert details*]

[The following table provides an example of how you might specify Other Contributions to the Activity.]

Contributor	**Nature of Contribution**	**Amount (incl. GST)**	**Timing**
[*insert Grantee or name of third party providing the Other Contribution*]	[*insert description of contribution, e.g., cash, access to equipment, secondment of personnel etc*]	$[*insert amount*]	[*insert date or Milestone to which the Other Contribution relates*
		$	

G1.2 The Grantee agrees to provide, or to ensure the provision of, the Other Contributions and to use them to undertake the Activity. If the Other Contributions are not provided in accordance with this clause, then the Commonwealth may:

(a) suspend payment of the Grant until the Other Contributions are provided; or

(b) terminate this Agreement in accordance with clause 18 of the General Grant Conditions.

If you include this clause, you must clearly set out 'Other Contributions' information. You do not have to use this table; you can delete it and insert the information in another appropriate format.

108. It is not uncommon for the Commonwealth to require a Grantee to secure contributions from other sources as a condition of the Grant. For example, the Commonwealth may be contributing 50 per cent of the funding for an Activity with the other 50 per cent to be sourced from the Grantee itself or from other organisations, such as a state government or a non-government organisation.

109. Supplement Term 'G1. Other Contributions' provides for the amount, source and details of additional funding or in-kind contributions to be identified. This may be important where, for example, you consider that without the Grantee obtaining the Other Contributions, there is a risk the Grantee will not be able to undertake the Activity. In this situation, you can monitor whether Other Contributions are being made in a timely manner before continuing to make payments.

6.2. G2. Activity budget

110. Where the Grant is contingent on the Grantee providing a budget outlining how the Grant will be spent, this Supplementary Term can be included. You should carefully consider whether this is necessary for a low-risk grant.

111. The purpose of including the budget is to provide you with additional information regarding the expenditure and financial management of the Grant and Other Contributions. This Supplementary Term is similar to Supplementary Term 'G1. Other Contributions' and similar considerations are relevant to the decision to include it. If a budget is requested, you should consider whether it is also appropriate for the Grantee to report details of expenditure against the budget, noting the default reporting and acquittal requirements (see section 4.5).

G2. Activity budget

[Where a budget has been agreed as a component of the Agreement it should be included below. The budget would form the basis against which the Grantee would acquit the Grant at the Activity's Completion Date. The budget should include any 'Other Contributions' - see above. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G2.1 The Grantee agrees to use the Grant [and any Other Contributions] and undertake the Activity consistent with the following budget:

[*insert details*]

[The following table provides an example of how you might specify the expenditure of the Grant within a budget.]

Expenditure Item	Description	Grant Contributions	Other Contributions - Grantee	Other Contributions - Third Parties	Total Cost
[*insert reference*]	[*insert description of the expenditure item*]	[*insert amount of Grant contributed to this budget item*]	[*insert amount of Grantees own funds contributed to this budget item*]	[*insert amount of other sources of funding contributed to this budget item*]	[*insert total amount cost of the budget item*]

If you include this clause, you must set out 'budget' information but you do not have to use this table; you can delete it and insert your own information.

112. The budget should cover the entire expenditure by the Grantee in relation to the Activity and not be restricted to expenditure of payments of the Grant from the Commonwealth. It is important to be aware that once a budget is included as part of the Agreement it can only be varied in accordance with the process outlined in the General Grant Conditions (see General Grant Condition 7). This may create a burden for the Grantee. For this reason, you should ensure that any budget included is sufficiently flexible to allow the Grantee to respond to changes and properly undertake the Activity. For example, it would be most appropriate to express the budget as categories of expenditure rather than listing expenditure for all individual line items.

6.3. G3. Record keeping

113. The default position under the Agreement is that the Grantee will maintain records of the expenditure of the Grant for the duration of the Agreement (see General Grant Condition 11). Where an Activity warrants specific additional record keeping requirements you should include them here. This may include financial and non-financial records. For example, client records, or where the Activity involves data collection or research, copies of the original surveys and consents from participants may be included if required.

G3. Record keeping

[You should clearly establish any additional record keeping requirements. Be sure to specify any requirement to retain records after the Activity ends. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G3. 1 The Grantee agrees to maintain the following records:

(a) identify the receipt and expenditure of the Grant [and any Other Contributions] separately within the Grantee's accounts and records so that at all times the Grant is identifiable; and

(b) keep financial accounts and records relating to the Activity so as to enable all receipts and payments related to the Activity to be identified and reported; and

(c) [*insert other requirements*]

G3.2 The Grantee agrees to maintain the records for five years after the Completion Date and provide copies of the records to the Commonwealth representative upon request.

G3.3 Term G3 survives the termination, cancellation or expiry of the Agreement.

If you have additional record keeping requirements, include them as subsections of G3.1, for example (c), (d) etc. If G3.1 (a) and (b) are sufficient delete (c) and the '; and' at the end of (b).

114. Supplementary Term 'G3. Record keeping' automatically includes some additional expenditure record keeping requirements relating to identification within accounts and records. It also requires the Grantee to make these records available to the Commonwealth upon request and establishes a record keeping period of five years after the Completion Date, consistent with other legislative requirements.

115. Grantees will have in place their own accounting and records management arrangements, for example, in order to comply with corporate governance, tax and other regulatory requirements. It is unnecessary to replicate all the record keeping requirements which already exist in legislation. This clause can be used to set out any 'Grant-specific' requirements where appropriate.

6.4. G4. Audit

116. The default position under the General Grant Conditions is for the Grantee to provide a signed statement confirming that the Grant was spent in accordance with the Agreement (see General Grant Condition 9). This Supplementary Term provides the option of requiring the Grantee to provide the Commonwealth with independently audited financial acquittal reports.

117. Obtaining an independent audit can be difficult and expensive, particularly in remote areas, and so this requirement should only be included where it is absolutely necessary, consistent with the Commonwealth Grants Rules and Guidelines. In addition, you should consider carefully the risk rating of a Grant that requires independently audited financial acquittal reports.

G4. Audit

[You should only include this clause if you have included the requirement to have an independently audited financial acquittal report in item 'E. Reporting' of the Grant Details. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G4.1 The Grantee agrees to provide the Commonwealth with independently audited financial acquittal reports verifying that the Grant was spent in accordance with this Agreement.

G4.2 Independently audited financial acquittal reports must be audited by:

(a) a Registered Company Auditor under the *Corporations Act 2001* (Cth); or

(b) a certified Practising Accountant; or

(c) a member of the National Institute of Accountants; or

(d) a member of the Institute of Chartered Accountants;

who is not a principal member, shareholder, officer or employee of the Grantee or a related body corporate.

If Supplementary Term 'G4. Audit' is included you should consider the financial burden of obtaining independently audited financial acquittal reports. A component of the Grant should cover the cost of complying with this requirement.

118. If Supplementary Term 'G4. Audit' is included you should consider the financial burden of obtaining independently audited financial acquittal reports. A component of the Grant should cover the cost of complying with this requirement. In particular, it is not expected that this Supplementary Term would be appropriate in low-value, one-off grants, as the cost of compliance is likely to be disproportionately high in relation to the value of, and risks associated with, the Grant.

6.5. G5. Activity Material

119. The default position under the General Grant Conditions is that Intellectual Property Rights created under the Agreement belong to the Grantee. The Commonwealth is given a limited licence in relation to the reports and related Material specified in item 'E. Reporting' of the Grant Details only (see General Grant Condition 12). Supplementary Term 'G5. Activity Material' provides the Commonwealth with a licence with regard to Intellectual Property Rights in a broader range of Material and covers all Material the Grantee creates as a result of the Activity.

G5. Activity Material

[Intellectual Property Rights created under this Agreement should belong to the Grantee and the Commonwealth is licensed with regard to the content of the reports in item 'E. Reporting' (see General Grant Condition 12). You should carefully consider if the Commonwealth is likely to want a licence over any Activity Material created under the Agreement and, if so, this clause should be included. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G5.1 The Grantee agrees, on request from the Commonwealth, to provide the Commonwealth with a copy of any Activity Material in the format reasonably requested by the Commonwealth.

G5.2 The Grantee provides the Commonwealth a permanent, non-exclusive, irrevocable, royalty-free licence (including a right to sub licence) to use, reproduce, publish, and adapt the Activity Material.

G5.3 The Grantee warrants that the provision and use of Activity Material in accordance with the Agreement will not infringe any third party's Intellectual Property Rights.

G5.4 Term G5 survives the termination, cancellation or expiry of the Agreement.

You do not insert your own information in G.5 Activity Material. Include either 'Not Applicable' **or** 'G5.1 through G5.4' and delete the rest.

120. It is expected this licence would only be used where the Commonwealth needs to adapt and use the products developed by the Grantee and where the Grant covers a considerable component of the cost of developing those products. An example might be where the Grant covers the cost of the Grantee conducting a pilot training program, including the development of training materials, and, if successful, you want to be able to make the training materials available to other participants in the relevant sector.

121. You should refer to the Australian Government Intellectual Property Manual for more information and guidance on the Commonwealth's policy on intellectual property.

122. Intellectual property law is a complicated area. If the Activity raises significant intellectual property ownership and licensing issues, then the template is unlikely to be suitable for your Grant.

6.6. G6. Access

123. Supplementary Term 'G6. Access' provides the option of acquiring a right to access the Grantee's premises and take copies of any Material relevant to the Activity. Accessing premises and removing Material is a significant power and is unlikely to be necessary for most Grants. Supplementary Term 'G6. Access' should only be included in situations where it is absolutely necessary.

G6. Access

[You should include this Supplementary Term where you require additional access to premises and documents due to the nature of the Activity. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G6.1 The Grantee agrees to give the Commonwealth, or any persons authorised in writing by the Commonwealth, access to premises where the Activity is being performed and to permit those persons to inspect and take copies of any Material relevant to the Activity.

G6.2 The Auditor-General and any Information Officer under the *Australian Information Commissioner Act 2010* (Cth) (including their delegates) are persons authorised for the purposes of clause G6.1.

G6.3 Term G6 does not detract from the statutory powers of the Auditor-General or an Information Officer (including their delegates).

You do not insert your own information in G6 Access. Include either 'Not Applicable' **or** 'G6.1 through G6.3' and delete the rest.

124. This term may be required in Agreements where end recipients/beneficiaries of the Grant are vulnerable persons, such as children or the elderly, or where the Grantee will be handling Personal Information. This clause will enable the Commonwealth to confirm the Grantee is complying with relevant legislation and standards, particularly when the Commonwealth also has a regulatory role.

6.7. G7. Equipment and assets

125. Supplementary Term 'G7. Equipment and assets' provides for additional conditions with regard to the purchase and use of equipment and assets with the Grant. It should only be used where equipment and assets are expected to form a large proportion of the Grant or there are a large number of assets required for the Activity.

G7. Equipment and assets

[Equipment and assets purchased by the Grantee for the purpose of the Activity are owned by the Grantee. Where significant equipment and assets are going to be required to undertake the Activity and/or you require the Grantee to keep records of equipment and assets purchased with the Grant the following clause(s) can be used. Consider whether a budget would also be appropriate - see Supplementary Term 'G2. Activity budget' above. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G7.1 The Grantee agrees to obtain the Commonwealth's prior written approval to use the Grant to purchase any equipment or asset for more than $5,000 (including GST), apart from those listed in the Budget and/or detailed below:

(a) [*insert list of approved equipment and assets*]

G7.2 The Grantee agrees to maintain a register of all equipment and assets purchased for $5,000 (including GST) or more with the Grant in the form specified below and to provide the register to the Commonwealth upon request.

[*insert details*]

[The following table provides an example of how you might design an equipment and assets register.]

Item Number	Description	Grant Contributions	Other Contributions - Grantee	Other Contributions – Third Parties	Total Cost
[*insert reference*]	[*insert description of the equipment or asset*]	[*insert amount of Grant contributed to this item*]	[*insert amount of Grantees own funds contributed to this item*]	[*insert amount of other sources of funding contributed to this item*]	[*insert total amount cost of the item*]

G7.3 The Grantee agrees to use the equipment and assets for the purposes of the Activity.

G7.4 The Grantee agrees that the proceeds of any equipment and assets purchased with the Grant disposed of during the Activity must be treated as part of the Grant and used for the purposes of the Activity.

Include any approved equipment and assets over the value of $5,000 here.

If you include this clause, you must set out an 'Equipment and Assets Register'. You do not have to use this table; you can delete it and insert your own information.

126. Under the Agreement, equipment and assets purchased by the Grantee for the purpose of undertaking the Activity are owned by the Grantee. Where the cost of the assets comprises a significant proportion of the Grant, cost overruns for these assets can have a significant impact on the Grantee's ability to undertake and complete the Activity. The creation and maintenance of an asset register can assist with managing assets. This Supplementary Term requires the Grantee to obtain written approval before purchasing any equipment or assets valued above $5,000 (GST inclusive) that aren't listed in the Agreement. In addition, the Grantee agrees to maintain a register of all equipment and assets purchased with a value above $5,000.

6.8. G8. Relevant qualifications or skills

127. Supplementary Term 'G8. Relevant qualifications or skills' allows you to list relevant qualifications or skills that persons undertaking the Activity, or work in relation to the Activity, are required to have. The nature of the Activity, or tasks being performed, may have specific qualifications required by legislation

or industry standards, for example, police clearances, working with children checks, first aid certificates, etc. This is more likely to be relevant where the Grant relates to Activities involving vulnerable persons or is of a technical nature.

G8. Relevant qualifications or skills

[You should consider whether particular persons are required to carry out aspects of the Activity or parts of it due to the specific qualifications or skills needed, or due to specific industry or legislative requirements. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G8.1 The Grantee agrees to ensure that personnel performing work in relation to the Activity are appropriately qualified to perform the tasks indicated and have the following relevant skills or qualifications:

(a) [*insert details of relevant activities and the qualifications, skills or other requirements of personnel performing those activities (e.g. requirement for police clearance, certificate 4 etc)*]

If you include this clause, you must set out which skills or qualifications are required for persons undertaking the Activity or particular tasks in the Activity.

128. Some grant agreements contain provisions that require specific persons perform specific tasks. This is generally inappropriate for low-risk grants. The template does not contain that type of clause. Rather, Supplementary Term 'G8. Relevant qualifications or skills' allows you to specify the skills and qualifications that persons undertaking the Activity, or parts of the Activity, are required to have, but without specifying who those persons are.

6.9. G9. Activity specific legislation, policies and industry standards

129. Supplementary Term 'G9. Activity specific legislation, policies and industry standards' allows you to list relevant legislation, policy and/or industry standards that are particularly relevant to the Activity. Although it is not necessary to restate requirements that already exist in law, specific grant programs may have policy objectives which are relevant to promote when engaging with the community.

G9. Activity specific legislation, policies and industry standards

[You can include any specific legislative or policy requirements or industry standards that apply to the Activity. In particular, you may wish to consider the requirement to comply with workplace health and safety policies. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G9.1 The Grantee agrees to comply with the requirements of the following legislation, policies and industry standards when undertaking the Activity:

(a) [*insert relevant legislation, policies and/or industry standards*]

You should only list legislation, policies and/or industry standards specific to the Activity being undertaken and which you want to make a component of the Agreement.

130. For some Activities, you may wish to ensure that the Grantee complies with your internal entity policies. For example, where the Grantee's personnel are likely to be interacting or working closely with entity staff, or regularly attending entity premises, it may be appropriate to list the Australian Public Service Code of Conduct or internal entity work, health and safety policies.

131. It is important to understand the purpose and potential consequences of including Supplementary Term 'G9. Activity specific legislation, policies and industry standards'. By including a requirement to comply with specific legislation or policy, the Grantee is bound by the Agreement to do so. Failure to comply could potentially expose the Grantee to the enforcement provisions of the Agreement, including withholding payments and/or termination for default.

6.10. G10. Commonwealth material, facilities and assistance

132. Supplementary Term 'G10. Commonwealth, material, facilities and assistance' allows you to specify any Commonwealth Material or assistance to be provided to the Grantee by the Commonwealth, in addition to the Grant. Types of assistance that could be provided include documentation, equipment, access to premises and administrative support.

G10. Commonwealth Material, facilities and assistance

[You should include this Supplementary Term where it is necessary to specify any Commonwealth Material or assistance to be provided by your agency (in addition to the Grant) to assist the Grantee to undertake the Activity. This could include documentation, equipment, access to premises, provision of administrative support. You should also include any conditions or restrictions on the Grantee's use, such as returning the Material following the Completion Date of the Activity. If you wish to provide Material only or facilities and assistance only, indicate "Not Applicable" in the clause that does not apply. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G10.1 In this Agreement, Commonwealth Material means any Material provided by the Commonwealth to the Grantee for the purposes of this Agreement or derived at any time from this Material, including the Material specified in G10.2, but does not include Reporting Material or Activity Material.

G10.2 The Commonwealth agrees to provide the following Material to the Grantee:

(a) [*insert details*] [OR] Not Applicable

G10.3 Nothing in this Agreement affects the ownership of Commonwealth Material.

G10.4 The Commonwealth grants the Grantee a licence to use the Commonwealth Material for the sole purpose of performing the Activity in accordance with this Agreement. The Grantee must, if requested, return all copies of the Commonwealth Material at the expiration or earlier termination of this Agreement.

G10.5 The Commonwealth agrees to provide the following facilities and assistance to the Grantee for the purpose of the Activity:

(a) [*insert details*] [OR] Not Applicable

G10.6 The Grantee agrees to comply with any directions or requirements notified by the Commonwealth when accessing the facilities and assistance.

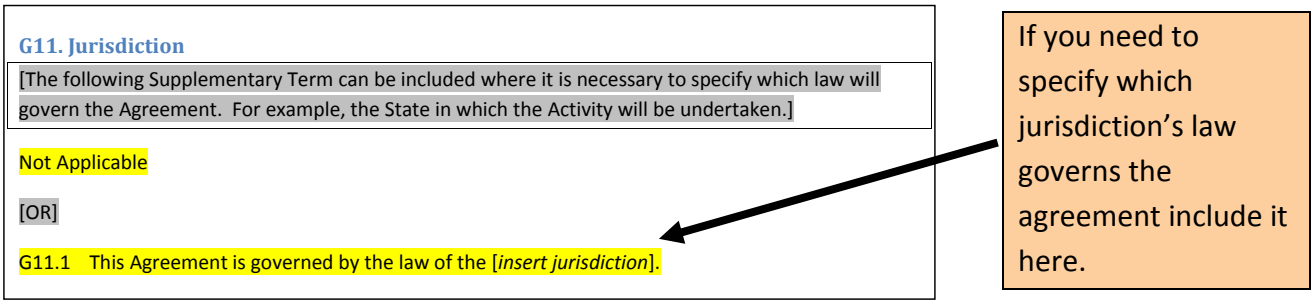
If you have agreed to provide Material to the Grantee you can list it here. If you have only agreed to provide facilities and assistance, leave 'Not Applicable'.

If you have agreed to provide facilities and assistance to the Grantee you can list it here. If you have only agreed to provide Material, leave 'Not Applicable'.

133. It is important to note that not including Supplementary Term 'G10. Commonwealth, material, facilities and assistance', or failing to include a particular form of assistance in this section, does not prohibit you from providing that assistance. Rather, this Supplementary Term allows you to include any items that may have formed the basis for reaching agreement to undertake the Activity.

6.11. G11. Jurisdiction

134. Supplementary Term 'G11. Jurisdiction' allows you to specify which jurisdiction's law will govern the Agreement. This may be appropriate where the Agreement is being used across a variety of states and territories.


G11. Jurisdiction
[The following Supplementary Term can be included where it is necessary to specify which law will govern the Agreement. For example, the State in which the Activity will be undertaken.]
Not Applicable
[OR]
G11.1 This Agreement is governed by the law of the [*insert jurisdiction*].
If you need to specify which jurisdiction's law governs the agreement include it here.

135. It is not uncommon for Commonwealth grant agreements to specify that they are governed by the law of the Australian Capital Territory (ACT). This may make sense to the entity administering the grant and the drafter of the agreement, where they are based in the ACT. However, it may not be appropriate where the agreement is executed in a state office, for the purposes of a grant in that state. In this situation, it is likely that any disputes or other issues would be best dealt with by a court in the state applying the laws of that state (such as general contract law or any specific laws relevant to the Activity being undertaken).

6.12. G12. Grantee trustee of a Trust

136. Supplementary Term 'G12. Grantee trustee of a Trust' should be included where the Grantee is the trustee of a Trust.

G12. Grantee trustee of a Trust

[You should include this term where the Grantee is a trustee of a Trust. You should ensure that the proper name of the Trust is included in the 'Parties' section at the start of this document. You should indicate "Not Applicable" and delete all other highlighted text if this Supplementary Term is not included.]

Not Applicable

[OR]

G12.1 In this clause, 'Trust' means the trust specified in the Parties to the Agreement section of this Agreement.

G12.2 The Grantee warrants that:

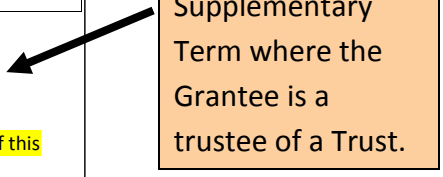
(a) it is the sole trustee of the Trust; and

(b) it has full and valid power and authority to enter into this Agreement and perform the obligations under it on behalf of the Trust; and

(c) it has entered into this Agreement for the proper administration of the Trust; and

(d) all necessary resolutions, consents, approvals and procedures have been obtained or duly satisfied to enter into this Agreement and perform the obligations under it; and

(e) it has the right to be indemnified out of the assets of the Trust for all liabilities incurred by it under this Agreement.



137. Trusts can have a variety structures and differing constitutions. Similarly, the law that applies to Trusts may differ across jurisdictions. If you are entering into an Agreement with a Grantee who is the trustee of a Trust and the Grantee has raised any concerns with the inclusion of this clause or has proposed amendments to this clause, you should seek legal advice.

7. Signatures

138. The signatures page is where the Grantee and the Commonwealth indicate their assent to, and execute, the Agreement. Once the Agreement has been executed it will be 'on foot', and the Parties will be legally bound by it.

Signatures

Executed as an agreement:

[You will need to consider the legal status and structure of the Grantee. The execution clause may need to be amended to reflect this. You should contact your legal area if you have any uncertainty as to how the Grantee should execute the Agreement. This is particularly the case where the Grantee is a partnership or a trust, or where the Grantee proposes an alternative form of execution clause.]

Commonwealth:

Signed for and on behalf of the Commonwealth of Australia as represented by [*insert agency*]	
Name: (print) Position: (print) Signature and date:	....
Witness Name: (print) Signature and date:	....

[Select or insert the appropriate signature block depending on the nature of Grantee. Delete the signature blocks that are not used.]

Grantee:

[If Grantee is an Individual]

Full legal name of the Grantee:	[*insert name of the Grantee and any ABN*]
Signatory Name: (print) Signature and date:	....
Witness Name: (print) Signature and date:	....

[OR]

[If Grantee is a Company]

Name of Company:	[*insert name of company and any ABN, ACN or ARBN*]
Director's Name: (print) Signature and date:	....
Director/Company Secretary Name: (print) Signature and date:	....

The Commonwealth signatory goes here. This may be you or someone in your entity. Make sure the signature is witnessed.

Here are example signature blocks for two different types of Grantees – individuals and Companies. Delete any signature blocks that are not used. If you are unsure of the formalities required for a particular type of Grantee, seek legal advice.

139. Included in the template are signature blocks for four common legal structures that will be relevant for entities likely to receive grants from the Commonwealth. You can modify the signature page to suit the particular Grantee. If you are unsure of the appropriate way to execute the Agreement you should seek legal advice.

140. A model signature block has not been included for trustees. If the Grantee is the trustee of a Trust you will need to determine the appropriate method of executing the Agreement.

141. In some situations, a representative of the Grantee (other than a Director, such as the Parties' representatives) will be executing the Agreement on behalf of the Grantee. It is important that the signatory has sufficient authority to enter into the Grant on behalf of the Party they represent. You should ask the Grantee to confirm the way in which it will be executing the Agreement and the basis upon which this is being done. If necessary, seek legal advice.

8. Frequently asked questions

142. **Can I write my own terms and conditions to include in the template?**

No. *To ensure consistency across all low-risk Commonwealth grants, you cannot add to or amend the template except in the highlighted areas. If you consider that additional clauses are necessary or significant amendments need to be made, you should reconsider your assessment of the proposed grant as being 'low-risk'.*

143. **Can I change the way the template looks?**

Yes. *You can include your own entity insignia and references into the template, for example, on the cover page. However, you should be careful not to change the structure of the template, except in the highlighted areas, and make sure that any changes are applied consistently throughout the template.*

144. **Can I add additional documents to the template?**

Yes. *Where additional documents have been incorporated into the Agreement by reference you should include them in the Agreement as schedules. For example, you may wish to include reporting templates under item 'E. Reporting' in the Grant Details, so that it is clear to the Grantee what is the required format for reports. This could be done by including the reporting template as an additional schedule at the end of the Agreement and including a reference in item 'E. Reporting'.*

You cannot add additional terms and conditions to the template as schedules.

145. **Can I use the template for multiple grants?**

Yes. *The template has been designed to accommodate multiple Grants or Activities. However, adding additional grants or activities to the Agreement may increase the complexity of the Agreement and may affect the overall risk profile of the Agreement. It will be inappropriate to use the template for multiple Grants where this would cause the Agreement to be considered medium or high risk. Regardless of how many Grants are included in the Agreement the template should only be used for low-risk grants.*

Only Grants with the same Grantee can be covered by the one Agreement. Where the Grantee is a different legal entity - even where it is part of the same corporate 'group' - a new Agreement should be used.

146. **Why doesn't the template require Commonwealth approval of subcontractors?**

This template is designed for use in relation to low-risk grants - with the Grantee responsible for the performance of the Activity and compliance with the requirements of the Agreement. You should carefully consider if the identity of subcontractors is a material issue. Where it is, you should reconsider your assessment of the proposed grant as 'low-risk' and the use of the template.

147. **Can I specify my own insurance requirements?**

No. *The default position under the General Grants Conditions is that the Grantee is required to maintain adequate insurance for the duration of the Agreement. Generally, the Commonwealth is not best placed to determine specific insurance requirements. If specific detail regarding the amount and/or types of insurance the Grantee should hold is a material consideration, or otherwise formed part of the risk assessment for the proposed grant, you should reconsider the assessment of the proposed grant as 'low-risk'.*

148. **Why don't the General Grant Conditions require the Grantee to maintain records for five years like other grant agreements?**

The General Grant Conditions contain the default record keeping clause under the template (see General Grant Condition 11). For many low-risk grants, requiring the Grantee maintain records for 5 years after the agreement ends is unnecessary. Where you need additional record keeping requirements, beyond those in the General Grant Conditions, you can include Supplementary Term G3 which requires that the Grantee maintain records for a period of five years after the Agreement ends.

149. **Who owns intellectual property created under the template?**

Under the General Grants Conditions, the Grantee owns the Intellectual Property Rights in Material created under the Agreement, and the Commonwealth has a licence to all reporting Material required in the Grant Details. This will generally be sufficient for your entity's purposes. Supplementary Term 'G5. Activity Material' provides an optional additional clause which provides the Commonwealth with a licence to all other Material created under the Agreement. You should consider carefully the need to include Supplementary Term 'G5. Activity Material' - taking into account the nature of the Material that will be produced by the Grantee and the extent to which the Commonwealth will need to be able to use that Material. You should also consider this issue from the perspective of the Grantee and the intended outcomes of the Grant, for example, possible commercialisation of any intellectual property by the Grantee.

150. **What is 'cancellation for convenience'? How is it different to 'termination for convenience'?**

Many Commonwealth grant agreements include a 'termination for convenience' clause. These clauses seek to provide the Commonwealth with the power to terminate an agreement usually for any reason, at any time. This can be necessary because circumstances may require the Government to end a particular program early, for example, due to a change in policy. The cancellation for convenience clause is similar. However, it may be narrower in scope than some termination for convenience clauses. In addition to considering the policy and program implications of the cancellation of an Agreement, you should also seek legal advice before taking any action under this clause.

Glossary

Activity *means the activities described in the Grant Details of an Agreement.*

Activity Material *means any Material, other than Reporting Material, created or developed by the Grantee as a result of the Activity.*

Agreement *means an Agreement created using the template and includes the Grant Details, Supplementary Terms (if any), the General Grant Conditions and any other document referenced or incorporated in the Grant Details.*

Australian Privacy Principle *has the same meaning as in the Privacy Act 1988.*

Change in the Control *means any change in any person(s) who directly exercise effective control over the Grantee.*

Commonwealth *means the Commonwealth of Australia, as represented by the entity specified in the Agreement, and includes, where relevant, its officers, employees, contractors and agents.*

Commonwealth Purposes *does not include commercialisation or the provision of the Material to a third party for its commercial use.*

Completion Date *means the date or event specified in the Grant Details. It is the point at which the Activity is completed.*

Existing Material *means Material developed independently of an Agreement that is incorporated in or supplied as part of Reporting Material.*

General Grant Conditions *means the document titled Commonwealth General Grant Conditions that forms part of an Agreement.*

Grant *means the money, or any part of it, payable by the Commonwealth to the Grantee as specified in the Grant Details of the Agreement.*

Grantee *means the legal entity specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.*

Grant Details *means the document titled Grant Details that forms part of an Agreement. It describes the purpose of the Grant, the details of the Activity to be undertaken and the payments to be made, as well as any supplementary terms that apply to the Activity, such as specific legislative requirements or industry standards.*

Intellectual Property Rights *means all copyright, patents, registered and unregistered trademarks (including service marks), registered designs, and other rights resulting from intellectual activity (other than moral rights under the Copyright Act 1968).*

Material *includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of them.*

Party *means the Grantee or the Commonwealth.*

Personal Information *has the same meaning as in the Privacy Act 1988.*

Reporting Material *means all Material which the Grantee is required to provide to the Commonwealth for reporting purposes as specified in the Grant Details of an Agreement.*

Supplementary Terms *means the optional terms contained in item 'G. Supplementary Terms' in the Grant Details.*

Australian Government
Department of Finance

Commonwealth Grant Agreement

between the Commonwealth represented by the

Department of Finance

and

Joan Citizen

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Grant Agreement [GA2013/01]

Parties to the Agreement

The Grantee

Full legal name of Grantee	Joan Citizen
Legal identity (e.g. individual, incorporated association, company, partnership etc)	Individual
Registered for GST?	No
Relevant business place (if different)	123 Canberra Street
Telephone	(55) 555 5555
Email	Joan.Citizen@email.com.au

The Commonwealth

The Commonwealth of Australia represented by Department of Finance
John Gorton Building, King Edward Terrace, Parkes ACT 2600
ABN 61970 632 495

Background

The Commonwealth has agreed to enter this Agreement under which the Commonwealth will provide the Grantee with one or more Grants for the purpose of assisting the Grantee to undertake the associated Activity.

The Grantee agrees to use each Grant and undertake each Activity in accordance with this Agreement and relevant Grant Details.

Scope of this Agreement

This Agreement comprises:

(a) this document;

(b) Supplementary Terms (if any);

(c) the General Grant Conditions (Schedule 1);

(d) the Grant Details;

(e) any other document referenced or incorporated in the Grant Details.

Each set of Grant Details, including Supplementary Terms (if any), only applies to the particular Grant and Activity covered by that set of Grant Details and a reference to the 'Agreement' in the Grant Details or the Supplementary Terms is a reference to the Agreement in relation to that particular Grant and Activity. If there is any ambiguity or inconsistency between the documents comprising this Agreement in relation to a Grant, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.

This Agreement represents the Parties' entire agreement in relation to each Grant provided under it and the relevant Activity and supersedes all prior representations, communications, agreements, statements and understandings, whether oral or in writing.

Certain information contained in or provided under this Agreement may be used for public reporting purposes.

Grant Details [GA2013/01.01]

A. Purpose of the Grant

The purpose of the Grant is to promote understanding of the Commonwealth's financial framework.

The Grant is being provided as part of the Helping Individuals Understand the Financial Framework course.

B. Activity

Attend a session of the Understanding the Financial Framework course during July 2014.

Provide a copy of the certificate of completion and a signed statement indicating the Grant was spent in accordance with the Agreement to the Commonwealth within 14 days of completing the course.

C. Duration of the Activity

The Activity starts on 1 July 2014 and ends on 30 July 2014, the Completion Date.

D. Payment of Grant

The total amount of the Grant is $5000.00 (GST incl).

The Grantee must ensure that the Grant is held in an account in the Grantee's name and which the Grantee controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia.

The Grantee's nominated bank account into which the Grant is to be paid is:

Account Name: Joan Citizen

BSB: 121-232

Account Number: 121232-0000

E. Reporting

The Grantee agrees to create the following reports in the form specified and to provide the reports to the Commonwealth representative in accordance with the following:

A signed statement indicating that the Grant was spent in accordance with this Agreement.

A copy of the certificate of completion of Helping Individuals Understand the Financial Framework course.

F. Party representatives and address for notices

Grantee's representative and address

Grantee's representative name	Joan Citizen
Position	Not Applicable
Postal/physical address(es)	123 Canberra Street Canberra Act 2600
Business hours telephone	(55) 555 6666
Mobile	1212 121 121
Fax	Not Applicable
E-mail	Joan.Citizen@email.com.au

Commonwealth representative and address

Name of representative	Public Servant #3702
Position	Grant Agreement Manager
Postal/physical address(es)	John Gorton Building, Kind Edward Terrace, Parkes ACT 2600
Business hours telephone	(55) 555 6666
Mobile	1212 323 323
Fax	(55) 555 7777
E-mail	3702@finance.gov.au

The Parties' representatives will be responsible for liaison and the day-to-day management of this Grant, as well as accepting and issuing any written notices in relation to the Grant.

G. Supplementary Terms

Not Applicable.

Signatures

Executed as an agreement:

Commonwealth:

Signed for and on behalf of the Commonwealth of Australia as represented by the Department of Finance.	
Name: (print) Position: (print) Signature and date:	Public Servant #3702 Grants Agreement Manager ***P Servant 1 July 2014***
Witness Name: (print) Signature and date:	Private Master Mills ***P MasterMills 1 July 2014***

Grantee:

Full legal name of the Grantee:	Joan Citizen
Signatory Name: (print) Signature and date:	Joan Citizen ***Joan Citizen 1 July 2014***
Witness Name: (print) Signature and date:	John Dough ***John Dough 1 July 2014***

1. Undertaking the Activity
The Grantee agrees to undertake the Activity in accordance with this Agreement.

2. Acknowledgements
The Grantee agrees to acknowledge the Commonwealth's support in Material published in connection with this Agreement and agrees to use any form of acknowledgment the Commonwealth reasonably specifies.

3. Notices
3.1 The Parties agree to notify the other Party of anything reasonably likely to affect the performance of the Activity or otherwise required under this Agreement.

3.2 A notice under this Agreement must be in writing, signed by the Party giving notice and addressed to the other Party's representative.

4. Relationship between the Parties
A Party is not by virtue of this Agreement the employee, agent or partner of the other Party and is not authorised to bind or represent the other Party.

5. Subcontracting
5.1 The Grantee remains responsible for compliance with this Agreement, including in relation to any tasks undertaken by subcontractors.

5.2 The Grantee agrees to make available to the Commonwealth the details of any of its subcontractors engaged to perform any tasks in relation to this Agreement upon request.

6. Conflict of interest
The Grantee agrees to notify the Commonwealth promptly of any actual, perceived or potential conflicts of interest which could affect its performance of this Agreement and agrees to take action to resolve the conflict.

7. Variation
This Agreement may be varied in writing only, signed by both Parties.

8. Payment of the Grant
8.1 The Commonwealth agrees to pay the Grant to the Grantee in accordance with the Grant Details.

8.2 The Commonwealth may by notice withhold payment of any amount of the Grant where it reasonably believes the Grantee has not complied with this Agreement or is unable to undertake the Activity.

8.3 A notice under clause 8.2 will contain the reasons for any payment being withheld and the steps the Grantee can take to address those reasons.

8.4 The Commonwealth will pay the withheld amount once the Grantee has satisfactorily addressed the reasons contained in a notice under clause 8.2.

9. Spending the Grant
9.1 The Grantee agrees to spend the Grant for the purpose of undertaking the Activity only.

9.2 The Grantee agrees to provide a statement signed by the Grantee verifying the Grant was spent in accordance with the Grant Details.

10. Repayment
10.1 If any of the Grant has been spent other than in accordance with this Agreement or any amount of the Grant is additional to the requirements of the Activity, the Grantee agrees to repay that amount to the Commonwealth unless agreed otherwise.

10.2 The amount to be repaid under clause 10.1 may be deducted by the Commonwealth from subsequent payments of the Grant.

11. Record keeping
The Grantee agrees to maintain records of the expenditure of the Grant.

12. Intellectual Property
12.1 The Grantee owns the Intellectual Property Rights in Material created undertaking the Activity.

12.2 The Grantee gives the Commonwealth a non-exclusive, irrevocable, royalty-free licence to use, reproduce, publish and adapt Reporting Material for Commonwealth Purposes.

12.3 The licence in clause 12.2 does not apply to Activity Material.

12.4 This Agreement does not affect the ownership of Intellectual Property Rights in Existing Material.

13. Privacy
When dealing with Personal Information in carrying out the Activity, the Grantee agrees not to do anything which, if done by the Commonwealth, would be a breach of an Australian Privacy Principle.

14. Confidentiality
The Parties agree not to disclose each other's confidential information without prior written consent unless required or authorised by law or Parliament.

15. Insurance
The Grantee agrees to maintain adequate insurance for the duration of this Agreement and provide the Commonwealth with proof when requested.

16. Indemnities
16.1 The Grantee indemnifies the Commonwealth, its officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.

16.2 The Grantee's obligation to indemnify the Commonwealth will reduce proportionally to the extent any act or omission involving fault on the part of the Commonwealth contributed to the claim, loss or damage.

17. Dispute resolution

17.1 The Parties agree not to initiate legal proceedings in relation to a dispute unless they have tried and failed to resolve the dispute by negotiation.

17.2 The Parties agree to continue to perform their respective obligations under this Agreement where a dispute exists.

17.3 The procedure for dispute resolution does not apply to action relating to termination or urgent litigation.

18. Termination for default

The Commonwealth may terminate this Agreement by notice where it reasonably believes the Grantee:

(a) has breached this Agreement; or

(b) has provided false or misleading statements in their application for the Grant; or

(c) has become bankrupt or insolvent, entered into a scheme of arrangement with creditors, or come under any form of external administration.

19. Cancellation for convenience

19.1 The Commonwealth may cancel this Agreement by notice, due to:

(a) a change in government policy; or

(b) a Change in the Control of the Grantee, which the Commonwealth believes will negatively affect the Grantee's ability to comply with this Agreement.

19.2 The Grantee agrees on receipt of a notice of cancellation under clause 19.1 to:

(a) stop the performance of the Grantee's obligations as specified in the notice; and

(b) take all available steps to minimise loss resulting from that cancellation.

19.3 In the event of cancellation under clause 19.1, the Commonwealth will be liable only to:

(a) pay any part of the Grant due and owing to the Grantee under this Agreement at the date of the notice; and

(b) reimburse any reasonable expenses the Grantee unavoidably incurs that relate directly to the cancellation and are not covered by 19.3(a).

19.4 The Commonwealth's liability to pay any amount under this clause is subject to:

(a) the Grantee's compliance with this Agreement; and

(b) the total amount of the Grant.

19.5 The Grantee will not be entitled to compensation for loss of prospective profits or benefits that would have been conferred on the Grantee.

20. Survival

Clauses 10, 12, 13, 14, 16, 20 and 21 survive termination, cancellation or expiry of this Agreement.

21. Definitions

In this Agreement, unless the contrary appears:

- **Activity** means the activities described in the Grant Details.
- **Activity Material** means any Material, other than Reporting Material, created or developed by the Grantee as a result of the Activity.
- **Agreement** means the Grant Details, Supplementary Terms (if any), the Commonwealth General Grant Conditions and any other document referenced or incorporated in the Grant Details.
- **Australian Privacy Principle** has the same meaning as in the *Privacy Act 1988*.
- **Change in the Control** means any change in any person(s) who directly exercise effective control over the Grantee.
- **Commonwealth** means the Commonwealth of Australia as represented by the Commonwealth entity specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
- **Commonwealth General Grant Conditions** means this document.
- **Commonwealth Purposes** does not include commercialisation or the provision of the Material to a third party for its commercial use.
- **Completion Date** means the date or event specified in the Grant Details.
- **Existing Material** means Material developed independently of this Agreement that is incorporated in or supplied as part of Reporting Material.
- **Grant** means the money, or any part of it, payable by the Commonwealth to the Grantee as specified in the Grant Details.
- **Grantee** means the legal entity specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
- **Grant Details** means the document titled Grant Details that forms part of this Agreement.
- **Intellectual Property Rights** means all copyright, patents, registered and unregistered trademarks (including service marks), registered designs, and other rights resulting from intellectual activity (other than moral rights under the *Copyright Act 1968*).
- **Material** includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of them.
- **Party** means the Grantee or the Commonwealth.
- **Personal Information** has the same meaning as in the *Privacy Act 1988*.
- **Reporting Material** means all Material which the Grantee is required to provide to the Commonwealth for reporting purposes as specified in the Grant Details.